



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

August 10, 2011

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Jean Carela**  
Tax Registry No. 943048  
Fleet Services Division  
Disciplinary Case No. 86151/10

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on December 20, 2010 and was charged with the following:

**DISCIPLINARY CASE NO. 86151/10**

1. Said Police Officer Jean Carela, while assigned to Police Service Area #7, while off-duty, on or about October 2, 2009, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully requested that another Member of the Service use a Department computer for non-Departmental purposes, to wit: said Police Officer Carela asked Police [Officer] Stacy White, Tax #904202, to run license plate [REDACTED] on a Department computer absent a Departmental purpose. (As amended)

**P.G. 203-10, Page 1, Paragraph 5**

**GENERAL REGULATIONS**

2. Said Police Officer Jean Carela, while assigned as indicated in Specification #1, while on-duty, on or about October 2, 2009, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully requested that another Member of the Service use a Department computer for non-Departmental purposes, to wit: said Police Officer Carela asked Police Officer Carol Cordero, Tax #945615, to run license plate [REDACTED] on a Department computer absent a Departmental purpose. (As amended)

**P.G. 203-10, Page 1, Paragraph 5**

**GENERAL REGULATIONS**

3. Said Police Officer Jean Carela, assigned as indicated in Specification #1, on January 20, 2010, during an official Department interview conducted by Lieutenant Daryl Miller, HBIU, pursuant to the provisions of Patrol Guide Section 206-13, did wrongfully make false and misleading statements, to wit: said Police Officer stated that he did not request that any Member of the Service run license plate # [REDACTED] on his behalf for non-Departmental reasons, other than Police Officer Stacy White, knowing that said statement was not, in fact, true. (As amended)

**P.G. 203-08, Page 1, Paragraph 1**

**GENERAL REGULATIONS  
MAKING FALSE STATEMENTS**

**POLICE OFFICER JEAN CARELA**

**DISCIPLINARY CASE NO. 86151/10**

4 Said Police Officer Jean Carela, assigned as indicated in Specification #1, on June 9, 2010, did wrongfully and without just cause prevent or interfere with an official Department investigation, to wit said Police Officer, during an official Department interview conducted by Lieutenant Daryl Miller, HBIU, stated that he did not write down a license plate number that he had requested other Members of the Service run on his behalf for non-Departmental reasons (As amended)

**P.G. 203-10, Page 1, Paragraph 5**

**GENERAL REGULATIONS**

5 Said Police Officer Jean Carela, assigned as indicated in Specification #1, on June 16, 2010, did wrongfully and without just cause prevent or interfere with an official Department investigation, to wit said Police Officer submitted a one-page document to Lieutenant Daryl Miller, HBIU, claiming in sum and substance, that he did write down license plate number #[sic] [REDACTED] and requested that Police Officer Stacy White run it for him because said license plate number was associated with a "suspicious" vehicle he observed while off-duty (As amended)

**P.G. 203-10, Page 1, Paragraph 5**

**PROHIBITED CONDUCT**

In a Memorandum dated April 21, 2011, Assistant Deputy Commissioner Weisel found the Respondent GUILTY of Specification Nos 1, 2, 3, and 5 and Not Guilty of Specification No 4 Having read the Memorandum and analyzed the facts and circumstances of this instant matter, I approve the findings, but disapprove the recommended penalty of summary dismissal from the Department

Although I find that the Respondent did engage in wrongful and inappropriate conduct, I am not entirely persuaded, based on the facts and evidence at trial, that a penalty of summary dismissal from the Department is warranted at this time However, a significant penalty is nevertheless appropriate

Therefore, Respondent Carela is to forfeit 30 Suspension days without pay, plus forfeit all prior periods of Suspension (*without pay, and with pay [including a waiver of all time, pay, and benefits therein]*), and is to also be placed on a One-Year Dismissal Probation period.



Raymond W. Kelly  
Police Commissioner





POLICE DEPARTMENT

-----X  
In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Jean Carela :

ORDER

Tax Registry No. 943048 :

OF

Fleet Services Division :

DISMISSAL  
-----X

Police Officer Jean Carela, Tax Registry No. 943048, Shield No. 19219, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 86151/10, as set forth on form P.D. 468-121, dated February 8, 2010, and after a review of the entire record, has been found Guilty of Specification Nos. 1, 2, 3 and 5; and found Not Guilty of Specification No. 4.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Jean Carela from the Police Service of the City of New York.

RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE:

COURTESY • PROFESSIONALISM • RESPECT



POLICE DEPARTMENT

April 21, 2011

-----X

In the Matter of the Charges and Specifications : Case No. 86151/10

- against - :

Police Officer Jean Carela :

Tax Registry No. 943048 :

Fleet Services Division :

-----X

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable David S. Weisel  
Assistant Deputy Commissioner - Trials

APPEARANCE:

For the Department:

Vivian Joo, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent:

Craig Hayes, Esq.  
Worth, Longworth & London, LLP  
111 John Street – Suite 640  
New York, New York 10038

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT



The above-named member of the Department appeared before the Court on December 20, 2010, and February 3, 2011, charged with the following

1 Said Police Officer Jean Carela, while assigned to Police Service Area # 7, while off-duty, on or about October 2, 2009, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully requested that another Member of the Service use a Department computer for non-Departmental purposes, to wit said Police Officer Carela asked Police [Officer] Stacy White, Tax # 904202, to run license plate # [REDACTED] on a Department computer absent a Departmental purpose *(As amended)*

P G 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

2 Said Police Officer Jean Carela, while assigned as indicated in Specification # 1, while on-duty, on or about October 2, 2009, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully requested that another Member of the Service use a Department computer for non-Departmental purposes, to wit said Police Officer Carela asked Police Officer Carol Cordero, Tax # 945615, to run license plate # [REDACTED] on a Department computer absent a Departmental purpose *(As amended)*

P G 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

3 Said Police Officer Jean Carela, assigned as indicated in Specification # 1, on January 20, 2010, during an official Department interview conducted by Lieutenant Daryl Miller, HBIU, pursuant to the provisions of Patrol Guide Section 206-13, did wrongfully make false and misleading statements, to wit said Police Officer stated that he did not request that any Member of the Service run license plate # [REDACTED] on his behalf for non-Departmental reasons, other than Police Officer Stacy White, knowing that said statement was not, in fact, true *(As amended)*

P G 203-08 Page 1, Paragraph 1 – GENERAL REGULATIONS  
MAKING FALSE STATEMENTS

4 Said Police Officer Jean Carela, assigned as indicated in Specification # 1, on June 9, 2010, did wrongfully and without just cause prevent or interfere with an official Department investigation, to wit said Police Officer, during an official Department interview conducted by Lieutenant Daryl Miller, HBIU, stated that he did not write down a license plate number that he had requested other Members of the Service run on his behalf for non-Departmental reasons *(As amended)*

P G 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

5 Said Police Officer Jean Carela, assigned as indicated in Specification # 1, on June 16, 2010, did wrongfully and without just cause prevent or interfere with an official Department investigation, to wit said Police Officer submitted a one-paged document to Lieutenant Daryl Miller, HBIU, claiming, in sum and substance, that he did write down license plate number plate # [sic] [REDACTED] and requested that Police Officer Stacy White run it for him because said

license plate number was associated with a "suspicious" vehicle he observed while off-duty (*As amended*)

P G 203-10 Page 1, Paragraph 5 – PROHIBITED CONDUCT

The Department was represented by Vivian Joo, Esq , Department Advocate's Office, and Respondent was represented by Craig Hayes, Esq

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review

### DECISION

Respondent is found Guilty of Specification Nos 1, 2, 3 and 5 He is found Not Guilty of Specification No 4

### SUMMARY OF EVIDENCE PRESENTED

#### The Department's Case

The Department called Police Officer Stacey White, Sergeant John Hynes, Police Officer Carol Cordero, Police Officer Kieran Farrell, and Lieutenant Daryl Miller as witnesses

#### Police Officer Stacey White

White had been assigned to the Manhattan Traffic Task Force for 15 years In 2009, however, she was assigned to Viper Unit 11 with Respondent.

On October 2, 2009, White was working a 2300x0723 tour when Respondent called and asked her to run a license plate White asked why and if he was working Respondent replied

that he was working. She told him to do it himself, but he said that his radio was dead. White wrote down the plate number and told Respondent to call her back.

White told Hynes, her supervisor, "[D]o you believe that Carela is calling and asking me to run a plate?" She told Hynes that she needed to make sure Respondent was on duty. She called the telephone switchboard operator (TS) and desk officer at Police Service Area (PSA) 7, and verified that Respondent was not working. White told Hynes that she was not going to run the plate because Respondent was not working. She threw the paper that she had written the plate number onto in the garbage. Hynes, however, saying, "[T]hat's not trash," took the note out of the garbage.

White testified that Respondent called her back within minutes of the initial call. She told him that she could not run the plate. Respondent said that was all right, and they hung up. White never ran the plate number for him.

On cross-examination, White characterized the conversation that she had with Respondent after she told him she would not run the plate as "minimum words." She agreed that he did not protest, or question why she would not run the plate. He did not try to contact her after that conversation, and she had not seen him until the trial.

#### Sergeant John Hynes

Hynes was a supervisor at Viper 11. At approximately 0115 hours on October 2, 2009, White reported to Hynes that she received a call from Respondent requesting that she run a license plate for him. Upon hearing this, Hynes called PSA 7 to see if Respondent was working. The desk officer informed Hynes that Respondent was not working. After finding out that Respondent was not working, Hynes called the PSA 7 integrity control officer (ICO).

Hynes observed White write a plate number on a piece of paper, subsequently throwing it in the trash. Hynes retrieved the paper, which was admitted as Department's Exhibit (DX) 7. Hynes put notations on the top of the paper, the plate number was in White's handwriting. Hynes wrote, "01 15 10/2/09 PO Carela called POW [Police Officer White] to run plate [REDACTED] Sgt Rodriguez states he is not working."

On cross-examination, Hynes confirmed that White did not tell him of any reason that Respondent wanted the plate run. Hynes was approximately three feet away from White when she was speaking with Respondent, and the conversation was not heated or argumentative.

Hynes testified that subsequently, he ran into Respondent at John Jay College, where they both attended. Hynes told Respondent that he had called the ICO. Respondent understood and seemed to take it well. There were no further conversations between Hynes and Respondent after that point.

#### Police Officer Carol Cordero

Cordero had been with the Department for approximately three years. She knew Respondent as a co-worker in her command, PSA 7. Her tax number was 945615.

On October 2, 2009, Cordero was working a 0700x1540 hour tour as TS operator when she received a call from Respondent. She knew that it was Respondent because he identified himself and his voice was familiar. Respondent told Cordero that he had just been in an accident and needed her to check on a license plate for him. Cordero did not know not know why Respondent needed the plate run, but "just assumed" that it had something to do with the radio motor patrol (RMP) vehicle accident he had just gotten into. She heard from the radios in the desk area that there had been an accident involving a police vehicle.



Cordero stated that she made several attempts to run the plate, but that she was new to the Finest system. She did not recall whether she actually retrieved the information for Respondent.

On cross-examination, Cordero admitted that Respondent did not state that the plate he wanted run was that of the other vehicle involved in the accident. He did not tell her that the plate he needed to be run was part of the investigation into the accident. He did not follow up with her about his request.

Police Officer Kieran Farrell

Farrell was assigned to the Management Information Systems Division (MISD). He was in charge of the Finest terminal, which was linked to the New York Statewide Police Information Network (NYSPIN), the Department of Motor Vehicles (DMV) database, and other networks.

Farrell testified that he received a request from the commanding officer of PSA 7, dated October 9, 2009. It was requested that MISD determine if Respondent's tax number was used to search in the Department's computers for the name [REDACTED], date of birth [REDACTED], or the license plate number [REDACTED] (no state was specified) (see DX 1, 49' from PSA 7). The time range was between August 1, 2009, and October 1, 2009.

Farrell conducted the search and found that Respondent had not signed on to the Department databases within that time period. Someone else, however, signed in on October 2, 2009, and ran the plate. That individual's tax number was 945615 (see DX 2, results of search).

Lieutenant Daryl Miller

Miller had been with the Department for 29 years. He had been assigned to the Housing Bureau Investigations Unit for 14 years. He investigated Respondent's case.

Miller explained that on October 2, 2009, Respondent called Viper Unit 11, in the Morris Houses, to have a license plate run. The plate was [REDACTED]. The request was made to Police Officer Stacey White. White did not run the plate, instead, she notified her supervisor, Sergeant Hynes, and a call was made to PSA 7. From this call, White determined that Respondent was not on duty when he made this request. Then, Hynes notified the PSA 7 ICO, Lieutenant Anthony Rivers, about the incident.

Later, during the second platoon on October 2, 2009, Respondent, this time while on duty, again requested that the same plate be run. This time the request was made to Cordero.

Miller identified DX 3 as a Police Accident Report pertaining to an accident between a civilian vehicle and the Department vehicle driven by Respondent on October 2, 2009, at approximately 0942 hours. The license plate number of the vehicle involved in the accident with Respondent was not the plate number that Respondent had asked Cordero to run. It was a Taxi and Limousine Commission (TLC) plate. No other vehicles were reported to have been in the accident.

Miller stated that Rivers made the request to MISD to check on who, if anyone, ran the plate in question. It was Miller that handwrote Cordero's name, shield, appointment and assignment dates on the top portion of DX 2, the results of the MISD search. He explained that Cordero had run the plate about 12 times starting from approximately 1038 hours.

Miller determined that in October 2009, the plate number [REDACTED] was registered to a blue Honda [REDACTED]. "[S]omewhere after 2010," the car became registered to a black Kia. In February 2010, Rivers interviewed the registered owner, who was identified as [REDACTED].

As part of his investigation, Miller conducted official Department interviews with Respondent on January 20, 2010, June 9, 2010, and June 25, 2010. Only the first interview was offered into evidence, as DX 4, with DX 4a the transcript.

In the first official Department interview on January 20, 2010, Respondent initially stated that he had not requested that the plate be run. Upon further questioning, however, Respondent remembered that he did make such a request. When specifically asked, Respondent denied that he asked anybody besides White. One thing that came out during the interview was that Respondent previously had gotten into trouble as a result of running license plates for non-Departmental purposes.

During the second official Department interview on June 9, 2010, Respondent told Miller that he could not recall calling Cordero during the second platoon, and that he had not written down the license plate number in question.

On June 16, 2010, Respondent faxed Miller an explanation as to why the plate was run. DX 5 was the memorandum sent by Respondent. In it, he stated that he obtained the license plate number in question "after observing a brown, old model Chevy van with just one license plate driving on his street of residence without headlights on at a very slow rate of speed." Respondent stated that he "became suspicious of the vehicle which at the time of observance appeared to be casing his street of residence for motorcycles to steal." This was a particular concern for Respondent because on July 18, 2009, his motorcycle had been stolen from in front of his house, as he reported to his local precinct. Respondent believed that the brown Chevrolet van "could have been the one used to steal his motorcycle as such van appeared to be observing other motorcycles." Respondent stated that he "came across this information only after retrieving a small note written by himself the night" he observed the Chevrolet van. He said that he found this note "recently" while he was "looking through old records at home." The verbatim

of the note was, "Old brown Chevy van, plate [REDACTED] rear only, no headlights on " DX 6 was the five-page fax that Respondent sent to Miller. In it, Respondent included the complaint report from when his motorcycle was stolen in July 2009.

*During the third official Department interview on June 25, 2010, Respondent told Miller that he had written the plate number down on a brown piece of paper and had put it in a box when he moved apartments. When he found the paper in the box, he remembered that he had written the number down after he saw that plate on a suspicious van that was circling around his block. Because Respondent's motorcycle had been stolen in July 2009, he believed that the individuals in the van were up to some kind of criminal activity. Respondent did not call 911, "notify the local police department," or prepare a complaint report.*

On cross-examination, Miller testified that the owner of the vehicle to which the [REDACTED] [REDACTED] plate was registered lived in the Bronx. The owner told investigators that she did not know Respondent. Miller stated that no connection was uncovered between this individual and Respondent. Although the owner said that she had switched the plates to a Kia over a year before her February 2010 interview, there were summonses confirming that the Honda was still the registered vehicle in October 2009. The owner of the car never made any complaint regarding false or improper summonses, "and really had no complaints about anything with regard to this."

Miller believed that in the first interview, Respondent stated that he might have wanted a plate run because vehicles were blocking parking spots in the vicinity of his home.

Miller contended that Respondent interfered with the investigation not by sending him information, but because of the nature of that information.



Respondent's Case

Respondent testified on his own behalf

Respondent

Respondent was appointed to the Department in January 2007. He had been assigned both to PSA 7 and Viper 11.

On October 2, 2009, sometime after midnight, Respondent was near his home in the [REDACTED], within the confines of the 49 Precinct. He noticed a brown van without headlights on and no license plate on the front end. When he got into his house, he saw the vehicle go by again. He wrote down the license plate number.

Respondent testified that he called Viper 11 and asked White to run the plate for him. He did so because the van seemed suspicious, his motorcycle had recently been stolen, and he thought the perpetrators might be back to steal one of his neighbors' motorcycles. He did not think that the plate truly was registered to the van, but he wanted to find out.

Respondent admitted that this was not the proper way to have a plate checked. He admitted that he should have called 911. However, he did not want to get the police involved if the van was not doing anything wrong. He first "wanted to see if my assumption was accurate."

Later that day, Respondent was assigned to work a 0705x1530 tour. During that tour, he was driving toward the site of an emergency when he hit a vehicle traveling through an intersection. As a result of the impact, Respondent suffered minor abrasions, a back injury, and shock. He received medical attention and was on line-of-duty sick leave for at least three weeks. He remembered answering the call and going to the job, but he did not remember the collision or

exiting his vehicle. He did not remember getting on the radio, although he must have because he called for help.

Respondent asserted that among his lasting effects from the accident were minor back pain, headaches, and "problems recalling information." He did not recall asking Cordero to run a plate for him after the accident.

Respondent admitted telling Miller during the official Department interviews that he did not believe he had written down a license plate number, and that he did not recall asking anyone but White to run a plate. He admitted at trial that asking White to run the plate constituted misconduct.

During the official interviews, Miller tried to help Respondent jog his memory of the incident by giving him some information, such as the car involved and the owner's name. Respondent did not recall anything about the car, and did not know the owner.

The Respondent testified that the van he observed on October 2, 2009, was not a Honda Odyssey. It was a brown, boxy Chevrolet van with curtains on the side windows.

After the second official interview, while Respondent was packing to move to another apartment, he found a paper on which he had written a license plate number, along with "old Chevy van, one license plate, no headlight, suspicion." This paper reminded Respondent of why he had called in the plate number.

Respondent called Miller to give him the information he remembered. Miller told Respondent to call his attorney, type up the information, and fax it to Miller after Respondent's lawyer approved. Respondent prepared a '49' and faxed it to Miller.

On cross-examination, Respondent admitted that during the first two official Department interviews, he could not remember why he had asked White to run the plate. He also admitted

that in the first official interview, he told Miller that his duty status had not come up in the conversation with White

Respondent testified that he was suspicious of the van because he thought it was there to steal motorcycles. It was not trash or recycling collection day, so the van would not have been looking to take those items. He admitted that his local precinct would have been in a better position than Viper 11 to handle the situation.

Respondent explained that he had suffered head trauma from the accident, which impaired his memory on occasion. He conceded that he was never diagnosed with memory loss.

## FINDINGS AND ANALYSIS

### Introduction

This case alleges the unauthorized access of Department-use databases, and false statements regarding that access. Many of the facts were not in dispute. Respondent was assigned to PSA 7. He previously had been assigned to Viper 11. In the early morning hours of October 2, 2009, Respondent called Police Officer Stacey White to run a license plate number, [REDACTED] ( [REDACTED] ) for him in the Department computer system that is linked to the DMV. White was on duty at Viper 11 performing a midnight tour. Respondent previously had been on modified duty as a result of running license plates for non-Departmental purposes. He and White knew each other from having worked together at that Viper unit.

White turned Respondent down, telling him to call back. She informed her supervisor, Sergeant John Hynes. Hynes reported the matter to the PSA 7 ICO, who reported the matter to Housing Bureau Investigations.

Later that day, during the day tour, Respondent was on duty at PSA 7 when he was involved in a vehicular accident. He called PSA 7 and reached Police Officer Carol Cordero,

who was staffing the TS Respondent told her he had just been in a motor vehicle accident and needed to run a plate Because Cordero could hear from the radios that Respondent, in fact, just had been in an accident, she believed his request was related to the accident, so she ran the plate

During Respondent's first official Department interview, in January 2010, he stated that he did not recall asking anyone other than White to run the plate The investigators knew at this point that Cordero had run the plate because of a search by MISD, revealing that a search was made using Cordero's tax number on October 2, 2009 Respondent told the investigators that he did not know why he would have asked someone to run that plate The investigators also knew at that point the true owner of the vehicle to which the plate was registered The vehicle first was a blue Honda [REDACTED], then the plate was turned over (legitimately) to a black Kia The vehicle with which Respondent had the accident was a van with TLC plates

Respondent was interviewed a second time on June 9, 2010 In that interview, he denied writing down the plate number he had asked White to run A week later, however, there was a third official Department interview In the intervening week, Respondent had faxed the investigator a memorandum The Respondent asserted in the '49' that he had recently remembered why he wanted the plate run in the first place He had seen a suspicious van near his [REDACTED] home in the middle of the night, driving with its headlights off and without a front plate He did write the information down, but asserted that he had forgotten the matter due to memory problems he had suffered after the accident Respondent claimed that he found the note while packing in preparation to move his residence



Specification Nos 1 & 2

The first two specifications are basically identical. In the first, Respondent is accused of asking White to run the plate for non-Departmental purposes. In the second, Respondent is accused of asking Cordero to do the same thing.

Respondent admitted that his stated reason for asking that the plate be run – seeing a suspicious vehicle off-duty – was “personal” in nature. He admitted asking White to run the plate. While he asserted having no memory of asking Cordero, she testified that he did ask and that she did run it. The MISD records (DX 2) demonstrate that the plate was run using Cordero’s tax number.

Accordingly, the Court finds Respondent Guilty of Specification Nos 1 and 2.

Specification No 3

In the third specification, Respondent is charged with making a false and misleading statement during his first official Department interview. It is alleged that Respondent stated that he did not ask any Department member other than White to run the plate “on his behalf for non-Departmental reasons knowing that said statement was not, in fact, true.” In other words, the Department is alleging that Respondent knew at the time of the interview that he had also asked Cordero to run the plate. Respondent claimed that he had no memory of asking Cordero. He pointed out that he asked her to do so right after getting into the on-duty motor vehicle accident. He also stated that he started having memory problems after the accident.

Respondent’s claim, therefore, rests on accepting that he had such severe failures of memory as to forget important details as seeing a suspicious van, writing down a note about that observation, and asking a fellow officer the next day to run the license plate. His first interview (DX 4 & 4a) is instructive, particularly when the recording is listened to. Most strikingly,

Respondent never stated that he had memory problems as the result of the accident. In fact, he testified at trial that he was never so diagnosed.

There was a great deal of hesitation in Respondent's voice when asked about how he came to be involved in running the plate in question. Respondent paused so much and so often as to indicate to the investigators and this Court that he was hiding something. This included, inter alia, when he initially did not recall asking *anyone* to run the plate, or whether he recalled a blue [REDACTED] blocking his spot. His most striking pause was to the question, "So you never called and had a plate ran just to find out who it was?" Instead of saying that he just could not remember due to his accident-caused memory problems, he instead merely replied, "I don't want to say No and then if I have and I didn't remember and then I don't want to say yes because I don't particularly recall." If Respondent truly had the memory problems he spoke of at trial, he should have said in the interview, at the outset, that he started experiencing memory problems right after the accident – an accident that occurred the very day he asked White and Cordero to run the plate.

The fact that Respondent had previously gotten in trouble for non-Departmental running of license plates makes it all the more likely he would have remembered anyone he asked to run a plate.

The Court also notes that Respondent called the TS, reaching Cordero, just after he had been in an on-duty accident. This indicates to the Court that for whatever reason, it was very important to Respondent to get the plate run. It was the second time that day he attempted to do so, he had to try again after getting rejected by White. It stands to reason that the questions at the interview would have jogged his memory about having observed a suspicious van on his block and wanting to get more information about it.

Furthermore, Respondent's denial of asking anyone besides White was not a situation where a member "merely denies a civil claim or an administrative charge of misconduct," rather than "creating a false description of events." See Patrol Guide § 203-08, Note, para 3. Here, Respondent lied and said that he did not remember asking a second individual to run the plate, when, in fact, he did ask that second individual (and remembered doing so).

As such, the Court rejects Respondent's claim that he had a failure of memory when the investigators inquired whether he had asked anyone besides White to run the plate. Accordingly, he is found Guilty of Specification No. 3.

#### Specification No. 4

The fourth specification charges Respondent with impeding an investigation. It is alleged that on June 9, 2010, i.e., during the second official Department interview, Respondent "stated that he did not write down a license plate number that he had requested other Members of the Service to run on his behalf." The investigator testified that during the second interview, Respondent stated that he did not write down the plate number he had requested be run by another member. The Department did not introduce this second interview into evidence.

Still, the Department argued, Respondent's statement was false because he subsequently faxed the investigator a note, detailing that he just remembered why he had wanted the plate run. While packing his possessions in preparation to move his residence, Respondent found a handwritten note, in which he had memorialized the event of October 2, 2009. The note stated that he had seen a suspicious van. According to the memorandum he sent the investigator, the note read, "Old brown Chevy van, plate # [REDACTED], rear only, no headlights on."

The Department argued that Respondent impeded the investigation by stating in the second interview that he had not written down a plate number. That was contradicted by his

subsequent memorandum. The problem, however, is that the Department has posited that Respondent's current account of seeing the suspicious van was "a story," i.e., a lie. That means that his post-second-interview account of having written down the plate number and other details was also, in the Department's view, false. Yet the Department is arguing that failing to tell the investigators about the handwritten note impeded the investigation. Essentially, the Department is saying that Respondent's failure to tell an untruth impeded the investigation. Frankly, this makes no sense and the assertion is inconsistent with the Department's view of the case as a whole.

The Department has put forth that Respondent's account of seeing a suspicious van was false. Respondent, however, could not have impeded the Department's investigation simply by failing to tell them something that, in the Department's view, was just as false. Accordingly, Respondent is found Not Guilty of Specification No. 4.

#### Specification No. 5

The fifth specification also charges Respondent with impeding an investigation into why he asked two other members of the service to run a license plate for him. It alleges that Respondent "did wrongfully and without just cause prevent or interfere" with the investigation when he "submitted a one-paged document" to the investigators, "claiming, in sum and substance, that he did write down license plate number [REDACTED]" and asked White to "run it for him because said license plate number was associated with a 'suspicious' vehicle he observed while off-duty."

As noted, the Department's view was that this document stated a false reason as to why Respondent wanted the plate run. If it were truly the reason he needed the plate, it would not be "wrongful[]" or "interfere[nce]" for him to tell the Department investigators the truth. The



Department did not argue that Respondent impeded the investigation by submitting truthful information in an untimely fashion

The same credibility determinations regarding Respondent's claimed lack of memory about this supposed reason while being interviewed, discussed in Specification No 3, supra, apply here. But there are further reasons to doubt Respondent's testimony that the reason he called for the plate was that he saw a suspicious van. He asserted that at approximately 0100 hours on October 2, 2009, he observed a brown, early-model Chevrolet van, with only a rear New York license plate, driving very slowly and without headlights on. The van "appeared to be observing" motorcycles, "casing his street of residence for motorcycles to steal." He believed this van could have been the same one that stole his motorcycle in July 2009.

Respondent wrote that he "came across this information only after retrieving a small note." Like his first official interview, he never detailed in the note that he had severe memory problems as a result of the RMP accident. Nor did he say, as he did at trial, that he found it while packing or that his suspicion was heightened by the fact that it was not the day to put out garbage or recycling. Furthermore, the note itself was never produced at trial.

Respondent never gave a cogent explanation of why he did not report the suspicious van to the police. If his account were true, it was a possible crime in progress and he should have called 911. At the very least, he should have called his residential precinct and reported his suspicions for referral to an anti-crime or conditions unit. His explanation – that he did not have a high enough level of suspicion – is incredible in every sense of the word coming from a uniformed member of the Department.

Moreover, Respondent's action was not simply the less-appropriate of two valid choices. He knew that asking another officer to do him a favor and run the plate was a violation of the

Patrol Guide because running plates for non-Department purposes was exactly what got him in trouble the first time

The calls to White and Cordero are also instructive. First, Respondent told neither officer the reason he wanted the plate run, even though his currently-stated reason, if true, arguably might be more appropriate than other cases in which members have looked up the records of, and for, current or former spouses, friends or acquaintances. There was no reason for Respondent not to tell White and Cordero his supposed reason.

Second, Respondent attempted to portray his reason as related to police action. He falsely told White that he was on duty. Although Respondent stated in his first official interview that his duty status did not come up while he and White spoke, both Hynes and White testified that they inquired with PSA 7 as to whether Respondent was working at the time of the call. Hynes wrote down on the note (DX 7) that the desk officer confirmed Respondent was off duty. This supports White's testimony that Respondent told her he was on duty because she and Hynes had to check into it.

When Respondent called Cordero later that day, he told her that he "was just in an accident" and "needed a check on a plate." Although Respondent did not expressly state that said plate belonged to another vehicle involved in the accident, he purposefully left Cordero with that impression. "I just assumed it had something to do with the RMP accident he was involved in."

Respondent also never explained what he hoped to gain from running this plate. Running a plate through a DMV computer gives certain information, but it is unclear how any of the

would have confirmed or negated Respondent's suspicions. Moreover, details like registration or unpaid traffic summonses could have identified the name and address of someone using the van, but that information could have been obtained just as easily by a bona fide

investigator Such a legitimate investigation could have been started if Respondent had called 911 or his precinct, which is what he should have done if he truly had observed this suspicious vehicle

Additionally, if Respondent were telling the truth about the van, it must also be believed that the van either had a fake or stolen license plate, or that Respondent miswrote the plate number This is so because, as the investigators discovered, the plate was registered to a blue Honda [REDACTED] in October 2009 There was no evidence presented that the plate had been stolen from a legitimate owner

Respondent argued that the Department was unable to show any connection between him and the individual that registered a vehicle with the DMV using plate number [REDACTED] As the investigator pointed out to Respondent in the first interview, however, it was not necessarily the case that Respondent had to know a specific individual to have wanted the plate run Moreover, someone could have asked Respondent to have the plate run, and that person could have had some connection to the individual or vehicle in question

In sum, the Court finds that Respondent's stated reason for attempting to have the plate run was untrue It impeded the investigation by continuing a false story designed to lead investigators away from the true reason he wanted the plate run Accordingly, the Court finds him Guilty of Specification No 5

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined See Matter of Pell v Board of Education, 34 N Y 2d 222 (1974) Respondent was appointed to the Department on January 10, 2007 Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum

Respondent has been found Guilty of impeding an investigation into why he asked two other police officers to run a license plate for him in the Department's computers linked to the DMV Respondent eventually "remembered" that he wanted the plate run because he had seen it on a suspicious van in his neighborhood The Court has found that his explanation completely defies credibility

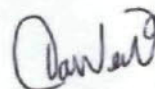
Far from a mere denial of misconduct to a Department investigator, this was extensive ethical misconduct involving a scheme by Respondent to deceive the Department and to prevent investigators from determining why he had tried to look up a certain license plate Respondent did not only impede an investigation, he successfully has prevented the Department from finding out the true reason he wanted the information And that reason is apparently important enough to Respondent that he still wants to keep it secret As is often said, "It's not the crime, it's the cover-up " Members of this organization are not allowed to impede investigations into their misconduct by concocting false stories about their actions

Moreover, as noted in the Confidential Memorandum, *infra*, this is the second serious disciplinary matter for a member with less than five years of service with the Department

Accordingly, the Court recommends that Respondent be *DISMISSED* from employment with the Department. See Case Nos 85591/09, 85593/09 & 86379/10, signed Aug 9, 2010 (five-year member with no prior disciplinary record was terminated for, inter alia, false statements and impeding an investigation, member, who was on sick leave, planned to leave the state, so he asked a receptionist at his physical therapy office to lie and say he had an appointment, member also gave Absence Control investigator a fake doctor's name), *Case No 81667/06*, signed Apr 26, 2007 (six-year member with no prior record was terminated for making false statements during Civilian Complaint Review Board and Department interviews, he falsely stated that he was not present at scene of a police incident, fabricated an alibi, and

attempted to influence testimony of a witness in an official Department investigation), confirmed  
sub nom. Foster v. Kelly, 55 A.D.3d 403 (1st Dept. 2008) (penalty of termination for false and  
misleading statements to Department investigators, and attempt to influence witness in official  
investigation, did not shock judicial conscience), lv. denied, 12 N.Y.3d 701 (2009).

Respectfully submitted,



David S. Weisel  
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

From Assistant Deputy Commissioner – Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
POLICE OFFICER JEAN CARELA  
TAX REGISTRY NO 943048  
DISCIPLINARY CASE NO 86151/10

In 2010, Respondent received an overall rating of 4.0 "Highly Competent" on his annual performance evaluation. He was rated 3.5 "Highly Competent/Competent" in 2009. He has been awarded two medals for Excellent Police Duty. [REDACTED]  
[REDACTED]

Respondent has been the subject of one prior adjudication. In 2009, he forfeited 20 vacation days for conducting an unjustified off-duty car stop. In addition, he repeatedly removed Department computer equipment from a Department facility and used it to make unauthorized inquiries.

For your consideration.



David S. Weisel  
Assistant Deputy Commissioner – Trials